

### **REMARKS**

Reconsideration of the rejection set forth in the Office Action is respectfully requested. By this amendment claims 1 and 12 have been amended. Currently, claims 1-13 are pending in this application.

#### **Rejection of claims under 35 USC 102**

Claims 1-13 were rejected under 35 USC 102 as anticipated by Rapaport (U.S. Patent Application Publication No. 2006/0161457). This rejection is respectfully traversed in view of the amendments to the claims and the following arguments.

Rapaport discloses a system that manages communications flowing into and out of a physician's office. (Rapaport at Paragraph 20). For example, Rapaport enables the handling of e-mail, telephone messages, faxes, and other forms of communication to be automated and tracked. When a particular communication arrives, it is converted to an "interview". The interview is classified based on the origin of the communication, the intended recipient, and the type of information contained within the communication. (Rapaport at paragraph 87). Workflows are developed which specify how particular types of interviews are to be handled within the medical office and the system monitors the interviews to ensure that the proper personnel receive and act on the communication. (Rapaport at paragraphs 203-205). Interviews may also be used to collect information from patients to follow up with treatment, and for numerous other purposes.

Rapaport mentions that medical images, e.g. X-rays, may be reviewed by medical personnel in connection with diagnosis and treatment of patients. (Rapaport at paragraphs 225-227). Rapaport is focused on monitoring people's interactions with these communications to ensure that important communications are not lost. The underlying communication network is assumed, and the system in Rapaport does not monitor how the network elements within the communication network are operating or whether a particular medical image is delayed while being transported across the communication network.

The Examiner mentioned that Rapaport teaches monitoring medical transactions on dynamically determined routes, citing the Internet at paragraph 238. Rapaport mentions that physicians can connect to the system over the Internet. This does not mean that Rapaport

teaches/suggests monitoring how data files (medical images) are being transported within the Internet itself.

Likewise, the Examiner pointed out that Rapaport sends alerts when there are problems in making urgent delivery attempts of important patient information, citing Rapaport at paragraph 98. Rapaport uses Alerts to notify medical personnel of important information that requires their attention, such as abnormal lab results. See Rapaport at paragraph 125 (defining Alert). Throughout the disclosure, Rapaport assumes the existence of the underlying network. Rapaport does not address how transmission of medical images should be monitored as the medical images are passed through the communication network itself.

Claim 1 has been amended to recite that the method is focused on monitoring transmission of medical images on a data communications network as the medical images are transported within the data communication network. In connection with this, claim 1 has been further amended to recite that the method includes the step of monitoring a medical image network transaction by a medical image transport service deployed on the data communication network. This clarifies that the monitoring is being done by a medical image transport service on the communication network itself. The first method step has been further amended to recite that the medical image network transaction relates to the delivery of the medical images over a dynamically determined route on the data communication network as the medical images are transported within the data communication network. This clarifies that the medical image transport service is monitoring the delivery of the medical images while the medical images are being transported within the data communication network. This claim, therefore, is related to monitoring the transmission of medical images within the network itself.

Rapaport, by contrast, monitors how people interact with various medical data, such as whether X-rays ordered by an MD have been generated, whether they have been reviewed by a radiologist, etc. Rapaport does not teach or suggest that the transmission of the medical images within the communication network should be monitored, but rather focuses on enabling workflows for particular types of medical treatments to be defined and then provides a system that can be used to monitor that everyone in the medical office is performing their tasks associated with the workflow so that proper medical care may be provided to patients. The focus, in Rapaport, is thus on automating the communication process between people so that

there is a follow-up mechanism to ensure that everyone is performing their portion of the medical care for a particular patient.

Claim 12 has been amended in a similar to focus on the network monitoring aspect as well, as opposed to the personnel monitoring system of Rapaport. In view of the amendments to claims 1 and 12, applicants respectfully submit that this application is in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-13 under 35 USC 102.

#### Conclusion

In view of these amendments and remarks, applicants respectfully submit that the claims pending in this application are in condition for allowance and respectfully request an action to that effect. If the Examiner believes a telephone interview would further prosecution of this application, the Examiner is respectfully requested to contact the undersigned at the number indicated below.

#### Extension of time

Applicants request a one month extension of time to respond to the outstanding office action. Payment for the one month extension of time is being submitted herewith. If any additional fees are due in connection with this filing, the Commissioner is hereby authorized to charge payment of the fees associated with this communication or credit any overpayment to Deposit Account No. 141315 (Ref: 16420BAUS01U).

Respectfully Submitted

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